



*Hawaii State
Federal Credit Union*

March 24, 2003

Chief of Records
ATTN Request for Comments
Office of Foreign Assets Control, Department of the Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20220

Gentlemen:

In response to OFAC's request for comments on the updated Internal Economic Sanctions Enforcement Guidelines, Hawaii State Federal Credit Union is in favor of most aspects of the proposal. However, there are some other important issues that we want to share with you.

- Determination of Violation/Cautionary Letters/Warning Letters

Hawaii State Federal Credit Union agrees that investigation and enforcement of economic sanctions violations rests with OFAC. And further, that the actions meted out are determined by OFAC based on the substantive nature of the violation and foreign policy and national security objectives of the sanctions program involved.

Hawaii State Federal Credit Union agrees that in the exercise of its discretion, OFAC would determine that issuing a warning letter, citing the specific facts and relevant law might achieve the same result as a monetary penalty to ensure future compliance with OFAC. The examples for which warning letters might be issued are reasonable and acceptable.

We would like to submit, for your consideration, to add the following situations to the examples enumerated in the Guidelines in which a warning letter is sent instead of a civil penalty, in the event of transaction violations:

- 1) Transactions where the names are spelled slightly differently from OFAC SDN list; and our investigation shows that the person does not live in the same general area as listed by the SDN. Further investigation uncovers that the person had moved. It is determined at a later date that the person is the same as that on the SDN. A report is filed immediately to correct the error. We would consider this action a voluntary disclosure. The financial institution exercised "due diligence" but because of the late filing, there is a monetary penalty assessed for the "uncontrollable" event.
- 2) The financial institution has installed a software program to scan customer database for SDN's. A "glitch" in the software fails to identify and block the target account. A report is submitted to OFAC late after the discovery of the error. The financial institution exercised voluntary disclosure. The financial institution exercised "due diligence", yet, it is subject to civil penalty for late filing that resulted from an "uncontrollable" event.

- Civil Penalties

Hawaii State Federal Credit Union agrees that the criteria for initiating civil penalty enforcement action may differ depending on the substantive nature of the violation as discussed in this section - that each failure to respond to a request by OFAC to furnish a report of a transaction generally results in a proposed penalty of \$10,000 with a lesser amount for late filing within the first month and over one month late.

We feel that the voluntary disclosure and the proposed penalties should be reviewed further and removed to a "warning letter" category rather than a "civil penalty" category when situations fall under uncontrollable events and where "due diligence" is practiced. The voluntary disclosures situations, such as described in 1) and 2) above, are late filings BUT are presented late due to uncontrollable events. The financial institution should not be hit with civil penalties for complying with the law albeit late disclosures. These were not deliberate omissions by the financial institution in reporting to OFAC.

- Aggravating Factors

Hawaii State Federal Credit Union agrees with the list of aggravating factors that are examples of willful and deliberate disregard for the law. OFAC administers a series of other laws that supplement the Updated Internal Economic Sanctions Enforcement Guidelines, all of which impose economic sanctions against "hostile" targets to further U.S. foreign policy and national security objectives.

The Guidelines were established pursuant to Presidential and Congressional mandates. OFAC administers and enforces 24 economic sanctions programs that preserve and advance the U.S. foreign policy and national security objectives. In order for the 24 sanctions programs to work, there must be uniform cooperation among all financial institutions to monitor the transactions of named organizations and individuals. If such transactions occur, and the financial institutions voluntarily come forth with the violations, the entire nation benefits.

In closing, we support the proposed enforcement guidelines. However, we ask that you consider our comments to help further enhance the Guidelines. We thank OFAC for the opportunity to comment.

Sincerely,


Deborah Kim
President

Cc: Credit Union National Association (CUNA)